



**DELBERT HOSEMANN**  
*Secretary of State*

**Mississippi Secretary of State  
2011 Business Law Reform Study Groups  
Minutes of the Fourth Meeting of the Rural Water Association Laws Study Group  
September 13, 2011**

The fourth meeting of the Rural Water Association Laws Study Group was called to order on Tuesday, September 13, 2011 at 10:02 A.M. at the Office of the Secretary of State, 700 North Street, Jackson, Mississippi. A list of the persons who were present in person or by telephone is attached in Exhibit A.

**Welcome and Introduction**

Ryan Pratt, Assistant Secretary of State for the Division of Policy and Research, welcomed the group back and opened the floor for introductions. He thanked everyone for participating in the group and taking time out of their day to be at the meeting. He turned the meeting over to Co-chairman, Kirby Mayfield.

Mr. Mayfield thanked everyone for their time and effort, extending a special thank you to Mr. Pratt and Secretary Delbert Hosemann for their efforts. He also thanked member Brett Harvey for his assistance with drafting the legislation.

**Approval of Previous Meeting's Minutes**

Mr. Pratt presented the previous meeting's minutes for approval by the study group and asked for any questions or comments. A member noted a correction on page 2 under Consolidation of Small Rural Water Systems, to replace "of" with "off." The study group approved the previous meeting's minutes by a unanimous vote.

**Subcommittee Reports**

Board Training

Co-chair, Mr. Ken Herring stated that board training is a great tool for water associations and small municipalities that are learning to operate a water system. Mr. Mayfield said there is an Attorney General's opinion that states mayors are required to attend board training.

## Current Laws, Conversion and Financing Alternatives

Mr. Harvey said the proposed changes should make water authorities more attractive than water associations. Mr. Harvey said changes were made to clarify the legislative intent that the provisions apply not only to those associations or authorities providing potable water, but also to those associations or authorities providing sewer services. He said the phrase “for compensation” was added for clarity.

Next, Mr. Harvey addressed § 51-41-3. He said the phrase “or sewer services for compensation” was added to § 51-41-3(d) clarify the scope of the provision. The group voted to strike the phrase “raw or potable” from the provision.

Mr. Harvey said § 51-41-8 was the most important substantive change. This provision was clarified to prevent anything under the statute from causing the water association or authority to surrender any protections provided in 7 USCS § 1926 (b). Ryan said § 51-41-8 coincides with the 7 USCS § 1926 (b) protection under state law. Mr. Harvey also said the first sentence of § 51-41-8 protects corporate water associations and water authorities from municipalities attempting to exercise eminent domain over water associations or authorities. The municipality cannot exercise eminent domain over a water association or authority unless the public service commission finds that services are not being adequately provided and that the certificate has been cancelled. Mr. Harvey said time constraints did not allow the group to address the bond provisions.

Mr. Jim Herring said the proposed changes will provide clarity to all concerned parties, especially § 51-41-8. He also said it might be best to strike the last sentence of § 77-3-21 to make it more consistent with other provisions.

One member asked if rural water associations can exercise eminent domain in municipal territory. Mr. Jim Herring said the association could not exercise eminent domain to take part of the municipality’s certificated area. The association would exercise eminent domain against the customer in order to install the line. Converting to an authority would not allow the association to invoke the quick-take provision, as the provision is very limited in its applicability. The city annexing the association’s certificated area does not change the fact that the water association has rights under its certificate.

A motion was made to strike “raw or potable” from the provisions. It passed unanimously. The group also voted unanimously to accept the proposed legislation, including § 77-3-21. Mr. Pratt briefly discussed the legislative process for the proposed legislation to become law.

Mr. Jim Herring asked if the Secretary of State’s Office expected any publicity on this proposal. Mr. Pratt answered by saying, while he was not speaking for the press, he believed there would be some publicity. Mr. Herring also said the proposed legislation would affect a public utilities statute and asked if this would be problem. In response, a member said there would not be any problems.

## **Closing Remarks**

Co-chair, Mr. Kirby Mayfield thanked everyone for devoting their time and effort to the proposed legislation. Mr. Pratt also thanked the group and said each member would receive the bill number and should keep track of its progress. With no other business, the meeting was adjourned at 10:25 a.m.

## EXHIBIT A

Minutes of the Rural Water Association Laws Study Group, Meeting #4 September 13, 2011

### Members in Attendance:

1. Ms. Leslie Royals for Keith Allen
2. Terry Boyette
3. Jim Elliot
4. Buddy Hand
5. Brett Harvey
6. Jim Herring
7. Ken Herring, Co-Chair
8. Kirby Mayfield
9. Mike McCool
10. Grant Mitchell
11. Patricia McDowell on behalf of Bettye Oliver
12. Derrick Surrette
13. Joey Vaughn

### Members in Attendance by Telephone:

1. Chris Wadell

### Secretary of State's Staff:

1. Ryan Pratt, Assistant Secretary of State, Division of Policy and Research
2. Justin Fitch, Senior Attorney, Division of Policy and Research
3. Brian Bledsoe, Special Counsel
4. Lindell Floyd
5. Landon Phillips, Legal Extern, Division of Policy and Research